

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

KELLI Y. CLINGMAN,

Plaintiff,

v.

SARIANG SOMY et al.,,

Defendants.

2:10-CV-1834 JCM (LRL)

ORDER

Presently before the court is plaintiff Kelli Clingman's application for a preliminary injunction. (Doc. #3).

"A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Nat. Resources Def. Council, Inc.*, 129 S. Ct. 365, 374 (2008).

On October 22, 2010, this court denied without prejudice plaintiff's motion for a temporary restraining order. (Doc. #6). Therein, the court stated that:

"[P]laintiff claims that "Defendant(s) Somy and Defendant Saisuda [Seadan] breached the lease agreement by failing to Pay the mortgage payments. . . [and] deceived Plaintiff and continue to accept the monthly lease payments on a monthly basis." (Doc. #1, compl., ¶ 87). From this, the court gathers that plaintiff was a tenant of defendants Somy and Seadan when the property first went into default. Plaintiff then claims that she gained an interest in the real property when defendants Somy and defendant Saedan executed a "Contract For Deed and a Grant, Bargain and Sale Deed" so that she could help to save the property from the foreclosure. (Doc. #1, compl., ¶ 94).

...

1 Plaintiff now comes before the court seeking to stop a scheduled foreclosure on the
2 property. There are several problems with this request. First is a standing issue,
3 because plaintiff received an interest in the property after default had occurred.
4 Second, plaintiff has not alleged that she or Somy/Seadan have or are continuing to
make payments under the mortgage agreement. Therefore, the court finds that the
plaintiff has not demonstrated a likelihood of success on the merits as required under
Federal Rule of Civil Procedure 65. (*Id.*)

5 The court finds these considerations equally applicable to the motion for a preliminary injunction.

6 The plaintiff has again failed to demonstrate a likelihood of success on the merits.

7 Accordingly,

8 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiff's motion for a
9 preliminary injunction (doc. #3) be, and the same hereby is, DENIED without prejudice.

10 DATED December 13, 2010.

11
12 
13 UNITED STATES DISTRICT JUDGE